IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

Con.Case(C).No. 891 of 2007(S)

ARISING OUT OF JUDGEMENT IN WPC.7902/2006 Dated 31/03/2006
.....

PETITIONER/PETITIONER:

BABU JOHN, S/O. JOHN, AGED 41,
VZHIPLAKKAL HOUSE, NEDUMKUNNAM VILLAGE,
CHANGANACHERRY TALUK, KOTTAYAM DISTRICT.

BY ADV. SRI.C.S.MANU

RESPONDENTS/RESPONDENTS 2 TO 5:
---

1. S. SREEJITH, I.P.S.,
SUPERINTENDENT OF POLICE, KOTTAYAM.

2. P.B. VIJAYAN,
DEPUTY SUPERINTENDENT OF POLICE, KOTTAYAM.

3. SAJU JOSEPH,
CIRCLE INSPECTOR OF POLICE, VAKATHANAM,
KOTTAYAM DISTRICT.

4. SHAJAHAN,
SUB INSPECTOR OF POLICE, KARUKACHAL POLICE STATION
KOTTAYAM DISTRICT.
(AGE AND FATHER'S NAME OF THE RESPONDENTS ARE NOT KONWN TO THE PETITIONER).

BY SR. GOVERNMENT PLEADER SMT.MEERA

THIS CONTEMPT CASE (CIVIL) HAVING BEEN FINALLY HEARD ON 18/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

Cont. Case (C) No.891 of 2007

Dated, this the 18th day of July, 2007

JUDGMENT

H.L.Dattu, C.J.

Alleging that the respondents have disobeyed the orders and directions issued by this Court in W.P.(C) No.7902 of 2006 dated 31st March, 2006, the complainant is before us in this contempt petition.

2. The respondents are served with the notice issued by this Court. The third respondent has filed a detailed counter affidavit.

3. This Court while disposing of the writ petition has issued the following directions:

> "In view of the above, it is necessary that petitioner will have to abide by the conditions imposed by the R.D.O. while levelling the land. So long as he is adhering to the conditions stipulated by the R.D.O. there cannot be any obstruction from the party respondents. In case there is any obstruction, petitioner shall inform the police authorities whereupon police shall inspect the property and give necessary protection to level the land strictly subject to the conditions imposed by the R.D.O. "

4. The third respondent in his counter affidavit has stated as under:

> "3. It is respectfully submitted in compliance with the above direction, sufficient police protection has been granted to the Petitioner at all times as requested to by the Petitioner. Though there have been strong protests in the locality against the operations conducted by the Petitioner, the Petitioner was able to carry on his work unhindered, solely on account of the protection granted to him by the police. In spite of the severe protests on 11.5.2007, 21.05.2007 and other dates, with the help of sufficient police force the Petitioner had carried on with his work. When the protestors went out of hand on 01.06.2007 objecting to the operations conducted by the Petitioner in his land, Crime 148/2007 of the Karukachal Police Station has been registered against the offenders under Sections 143, 147, 148, 149, 447, 506, 294(b) and 188 IPC. Therefore it is respectfully submitted that there is absolutely no merit in the contention of the Petitioner that he had not been afforded police protection in compliance with the direction of this Hon'ble Court and that contempt of this

Hon'ble Court has been committed. All the allegations of the Petitioner in that regard are baseless, false and hence denied.

4. When the protest against the work carried on by the Petitioner became widespread and persistent escalating to a situation of breach of peace in the area, the 4th respondent herein viz; the S.I. of Police, Karukachal submitted a report dated 22.05.2007 before the R.D.O. Kottayam under Sections 133 (1) (e) and 144 Cr.P.C. That apart a mass petition dated 23.05.2007 was also submitted by the local residents before the R.D.O. Kottayam complaining about the operations conducted by the Petitioner in his property. In such circumstances, the R.D.O. Kottayam issued Order No.K.1265/05 dated 04.06.2007 prohibiting the Petitioner from removing earth from his property. A true copy of the said Order is produced herewith and the same may be marked as Annexure R1. True English translation of Annexure R1 Order is also produced herewith and the same may be marked as Annexure R2."

5. After careful consideration of the plea made by the complainant and the counter affidavit filed by the third respondent, we are of the opinion that there is neither deliberate nor wilful disobedience of the orders passed by this Court by the respondents. In that view of the matter, we decline to take cognizance of this contempt petition. Accordingly the proceedings are dropped.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns